IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE V.GIRI

THURSDAY, THE 29TH NOVEMBER 2007 / 8TH AGRAHAYANA 1929

WP(C).No. 22860 of 2005(U)

PETITIONERS:

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1. **JOHN K.C., S/O.UNNUNNY.K. AGED 50 YEARS, GENERAL SECRETARY, ELECTRICAL MECHANICAL AND ENGINEERING WORKERS UNION, PARVATHI MILLS, KOLLAM, RESIDENT AT JIJU NIVAS, KANDACHIRA,PERINAD P.O. KOLLAM.**

2. **SUNDARA NAIK P.A., S/O.APPANNA NAIR, THUMPODI HOUSE, CHAMUNDIKUNNU P.O. RAJAPURAM VIA, HOSDURG, KASARAGOD.**

3. **R.PRASANNA KUMAR, CHAKKALAKIZHAKKATHIL PUTHEN SANGATHOM, KOIVILA P.O. THEVALAKKARA, KARUNAGAPPALLY.**

4. **V.STEPHEN, DEPPO PURAYIDOM, CANTONMENT RESIDENCE ASSOCIATION, CANTONMENT, KOLLAM.**

5. **YOHANNAN.S., S/O.SEBASTIAN MANUEL, ANCY COTTAGE, ARATHY JUNCTION, SURABHI NAGAR, NO.185, AYATHIL P.O. KOLLAM 17.**

6. **V.K.RAVEENDRAN, KALLORVILA KIZHAKKATHIL, MATHILIL P.O. PERINADU, KOLLAM.**

7. **P.P.VISWALAL MOORTHY, S/O.P.K.PURUSHAM, POTTETHARA HOUSE, NOW COLONY, NARAKKAL P.O. ERNAKULAM DISTRICT.**

BY ADV. SRI.DINESH R.SHENOY

RESPONDENTS:
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1. **THE CHAIRMAN @ MANAGING DIRECTOR, NATIONAL TEXTILES CORPORATION LIMITED, CORE NO4, TOLSTOY MARG, NEW DELHI.**

2. **THE REGIONAL MANAGER, NATIONAL TEXTILES CORPORATION LIMITED, NANCHAPPA MANSION, 29/2. K.H. ROAD, SANTHI NAGAR, BANGALORE.**

3. **THE GENERAL MANAGER, PARVATHI MILLS, KOLLAM 691 001.**

4. **UNION OF INDIA, REPRESENTED BY THE SECRETARY TO GOVERNMENT, MINISTRY OF TEXTILES, NEW DELHI.**

BY ADV. SRI.PRAKASH PUTHIADAM, ADDL.CGSC
SRI.C.S.ABDUL SAMMAD, ACGSC

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 29/11/2007 ALONG WITH WPC.NO.31839 OF 2005, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

KSS

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1: COPY OF THE REPRESENTATION DTD. 13/06/2005 SUBMITTED BY THE 1ST PETITIONER BEFORE THE 2ND RESPONDENT.

EXT.P2: COPY OF THE MASS REPRESENTATION DTD. NIL SUBMITTED BY THE WORKERS OF THE 2ND RESPONDENT MILL BEFORE THE 2ND RESPONDENT.

EXT.P3: COPY OF THE RESULT OF THE REFERENDUM DTD. 16/12/2006 IN THE PARVATHI MILL, KOLLAM.

EXT.P4: COPY OF THE MEMORANDUM OF SETTLEMENT DTD.6/06/2005.

EXT.P5: COPY OF THE MEMORANDUM OF SETTLEMENT DTD.11/07/2005.

EXT.P6: COPY OF REPRESENTATION DTD. 30/07/2006 SUBMITTED BY THE 3RD RESPONDENT.

1ST RESPONDENT'S EXHIBITS:

EXT.R1(A): COPY OF THE PROCEEDINGS DTD. 7/02/2002 OF THE BIFR.

EXT.R1(B): COPY OF THE MEMORANDUM OF UNDERSTANDING DTD. 6/03/2002 SIGNED BY THE MANAGEMENT OF 3RD RESPONDENT AND RECOGNIZED TRADE UNIONS OF WORKERS.

EXT.R1(C): COPY OF THE MEMORANDUM OF SETTLEMENT DTD.5/2/1981.

EXT.R1(D): COPY OF THE MEMORANDUM OF SETTLEMENT DTD.12/3/1989.

EXT.R1(E): COPY OF THE MEMORANDUM OF SETTLEMENT DTD. 25/06/1996.

EXT.R1(F): COPY OF THE JOINT CHARTER OF DEMANDS TO THE MANAGEMENT DTD. 3/05/2005.

EXT.R1(G): COPY OF THE LETTER DTD. 2/06/2005 SENT BY TRADE UNIONS TO THE 3RD RESPONDENT.

EXT.R1(H): COPY OF THE LETTER NO.NTC/IR/F-247/204/127 DTD. 19/08/2004 OF THE 2ND RESPONDENT.

EXT.R1(I): COPY OF THE CIRCULAR NTC/IRF/174 (1)/2005 PAY REVISION DTD. 25/05/2005.

WPC.NO.22860/2005 U

EXT.R1(J): **COPY OF THE MINUTES OF THE MEETING HELD ON 31/05/2005 BETWEEN THE MANAGEMENT AND REPRESENTATIVES OF TRADE UNIONS.**

EXT.R1(K): **COPY OF THE SETTLEMENT DTD. 6/06/2005.**

EXT.R1(L): **COPY OF THE SETTLEMENT DTD. 11/07/2005.**

EXT.R1(M): **COPY OF THE PROPOSAL NO.PVL/PSL/05-06/1809 DTD. 3/09/2005 GIVEN BY THE 3RD RESPONDENT TO THE 4 RECOGNIZED TRADE UNION OF WORKERS.**

EXT.R1(N): **COPY OF THE MEMORANDUM OF SETTLEMENT DTD. 6/03/2002 SIGNED BETWEEN THE MANAGEMENT OF THE THIRD RESPONDENT AND THE 4 RECOGNIZED TRADE UNIONS REPRESENTING THE WORKERS.**

4TH RESPONDENT'S EXHIBIT:

EXT.R4(A): **COPY OF THE SETTLEMENT DTD. 11/07/2005.**

/TRUE COPY/

P.S.TO JUDGE

KSS

V.GIRI, J.

W.P.(C).No.22860 & 31838 of 2005

Dated this the 29th day of November, 2007.

JUDGMENT

Common issues arise in these cases and they are heard together and are being disposed of by this common judgment. For the sake of convenience, W.P.(c) No.22860/05 is taken as the leading case.

2. First petitioner is the Joint Secretary of the Electrical, Mechanical and Engineering Workers' Union in the 3rd respondent Mill. Petitioners' claim that for the past many years, there has been no wage revision for the workers in the 3rd respondent mill. The benefit of such revision has been given to the staff of the factories as well as of the office, pursuant to the directions issued by the Supreme Court in the decision in the **Chairman-cum-Managing Director, National Textiles Corporation v. N.T.C {2003(11) SCC 31}.** They contend that the directions given by the Supreme Court in the aforementioned decisions was complied with by the 3rd respondent and the staff and sub-staff working in the Textile Mills have been given the benefit of wage revision. There has been no wage revision for the Workers of the 3rd respondent.

3. In the counter affidavit filed on behalf of the 3rd respondent, it is contended that the wage structure of the workers as such is governed by the long term settlement under Section 12 of the Industrial Disputes Act. Reference in this regard is made to the Long Term Settlements Ext.R1(c) to R1(e). Subsequently, Ext.R1(f) Charter of demands was made by the Registered Unions in the mill to the Management. The matter was discussed. Ext.R1(j) is the minutes of the meeting of the management held on 31.5.2005. One of the aspects referred to in Ext.R1 (j) minutes is the demand which was persisted with by the Union for the wage revision of the workers. They demanded that the same must also be implemented taking note of the directions of the Supreme Court in the matter of pay revision of the pay of the staff. Ext.R1(k) is the memorandum of settlement arrived at on 6.6.2005. One of the terms of the settlement provided for a decision to revise the MOU which had expired on 31.3.2005 by holding a discussion between the parties on 16.8.2005. Ext.R1(l) is the subsequent agreement entered on 11.7.2005 which inter alia provided for payment of Rs.325/- per month to the

workers in the Mills in Kerala and Mahe. Clause 5 of Ext.R1(l) provides that the management and workmen agree to initiate a long term settlement so as to finalise the same within three months. Subsequently Ext.R1(m) proposal was submitted by the management to the Unions on 3.9.2002. The proposal relates to the workload and the existing machineries and new machines. There has been no further progress in the matter of bringing out any settlement regarding the revision of wages payable to the workers. The petitioners seek a direction to the respondents to consider the question of wage revision to the workers in the 3rd respondent mill without limiting the same only to the Ministerial staff and not to discriminate against the workers in the mill, in the matter of wage revision.

4. On going through the counter affidavit and the steps taken for long term settlement regarding the revision of wages insofar as the workers in the Mills are concerned, I find that there is inadequate progress from the stage of Ext.R1(l). The workers are being given only interim relief at the rate of Rs.325/- as evidenced by Ext.R1(m). The

directions issued by the Supreme Court in **Chairman-cum-Managing Director, National Textiles Corporation v. N.T.C {2003(11) SCC 31}** ipso facto applies to the staff and sub-staff in the office and mill. But the principles laid down therein cannot be considered as inapplicable to the case of the workers.

5. Learned counsel for the respondent may be right in submitting that the workers cannot claim parity with the wage revision effected in relation to the staff and the sub-staff in the office in the Mill. But, it is not possible to ignore the fact that the Unions and the Management had proceeded on the premise that a wage revision for the workers is necessary. But, as noted above, it does not seem that there is any progress revision subsequent to Ext.R1 (m).

6. Learned counsel for the respondent submits that the petitioners in these writ petitions are only a few workmen and therefore, they cannot claim the status of representing all the workmen in the factory workers. May be, this is true. But, as I have already mentioned above, it is not possible to ignore the fact there has not been any progress in

the matter of revision of the wages of the workmen subsequent to Ext.R1(m).

7. In the aforementioned decision of the Supreme court in **Chairman-cum-Managing Director, National Textiles Corporation v. N.T.C {2003(11) SCC 31},** while considering the question of the extent of the relief to be granted to the petitioners therein, the Supreme Court had observed that the court is ill-equipped to work out the extent of relief to be granted to the workers in the mills. Therefore, the court directed the Central Government to take appropriate steps including the appointment of an expert if so required to work out the extent of relief to be granted to the workers in the mills. May be, financial constraints will have to be borne in mind. But, it cannot be to the extent of virtual denial of any benefit. The Court also took note of the statutory liability of the Government for wages, salaries and dues of the workers.

8. In the circumstances, after taking note of all the relevant aspects involved in the matter, I am of the view that the Union Government should bestow its attention to the fact that there has not

been any serious endeavour for arriving at a long term settlement regarding the revision of the wages payable to the workers in the 3rd respondent mill. The Government may, therefore, should either see that a settlement is arrived between the Unions and the Management or take steps to refer an industrial dispute with regard to the revision of wages of the workers in the 3rd respondent mill to the appropriate Industrial Tribunal.

9. In the result, the writ petition is disposed of in the following terms:

(i) The petitioners herein, along with the representative of any recognised Trade Unions in the 3rd mills, if they are so inclined, shall file a detailed representation before the 4th respondent producing therewith, a certified copy of this judgment within one month from the date of receipt of the same.

(ii) The Central Government shall issue notice to the management as well as recognised Trade Unions and the petitioners herein and see that a long term settlement, as regards the revision of the wages of the workers,

is arrived at within a period of six months from the date of receipt of a copy of this judgment.

(iii) If no such settlement is arrived at, then the Central Government shall, in accordance with law, take appropriate steps for referring an Industrial dispute relating to the revision of wages of the workers in the 3rd respondent mill, within a period of one month thereafter.

(iv) Such decision shall be taken in accordance with law.

W.P.(C)No.31839/05

The direction in the above case will be applicable to the present case also.

Writ petitions are disposed of accordingly.

Sd/-
(V.GIRI)
JUDGE

sk/

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